

**Amendment and Response**  
Applicant: Jerald A. Hammann  
Serial No.: 09/840,332  
Filing Date: April 23, 2001  
Docket: H238.101.101  
Title: SYSTEM AND METHOD EMPLOYING YIELD MANAGEMENT IN HUMAN-FACTOR RESOURCE INDUSTRY

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### **REMARKS**

The following remarks are made in response to the Non-Final Office Action mailed December 27, 2006. Claims 31-40 were rejected. With this Response, no claims have been amended. Claims 31-40 remain pending in the application and are presented for reconsideration and allowance.

#### **Double Patenting**

The Examiner provisionally rejected claims 31, 32, 33, 34, 35, and 36-40 under the judicially created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claims 1, 7, 12, 17, 22, and 66-70 of co-pending Application No. 09/999,378.

The present application was filed on April 23, 2001 claiming priority to U.S. Provisional Patent Application 60/198,816, which was filed on April 21, 2000. The co-pending application Serial No. 09/999,378 was filed on October 31, 2001. Since the present application is the earlier filed application of these two pending applications, Applicant respectfully requests that if the below rejections are removed that the provisional double patenting rejection to claims 31-40 based claims 2, 7, 12, 17, 22, and 66-70 of co-pending Application No. 09/999,378 be withdrawn per M.P.E.P § 804 and claims 31-40 be allowed.

#### **Claim Rejections under 35 U.S.C. § 102**

The Examiner rejected claims 31-40 under 35 U.S.C. § 102(e) as being anticipated by the Ghaisas et al. U.S. Patent Application Publication No. 2002/019876.

The Ghaisas et al. U.S. Patent Application published on December 26, 2002 and was filed on June 22, 2001. The current patent application was filed on April 23, 2001 and claims the benefit of filing date of U.S. Provisional Patent Application Serial No. 60/198,816, filed April 21, 2000. Therefore, both the filing date of the present application and the filing date of Provisional Application Serial No. 60/198,816 are prior to the filing date of the Ghaisas et al. patent application. Accordingly, the Ghaisas et al. patent application does not qualify as a

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reference under 35 U.S.C. § 102 (e). Thus, the rejection to claims 31-40 under 35 U.S.C. § 102 (e) no longer applies.

Therefore, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection to claims 31-40, and request allowance of these claims.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 31-40 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 31-40 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Patrick Billig at Telephone No. (612) 573-2003, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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Date: March 27, 2007

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